

Persons who engage in the business of selling monuments, grave markers and the like to purchasers for use or consumption and not for resale incur Retailers' Occupation Tax liability on their receipts from such sales. See 86 Ill. Adm. Code 130.2130. (This is a GIL).

June 13, 2000

Dear Xxxxx:

This letter is in response to your letter to Director Bower dated May 30, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

I recently helped my mother purchase a monument for my father's grave site. The stone is purchased, engraved, installed and maintained by the cemetery. The cemetery collected sales tax on the transaction which I strongly objected to paying and would like the tax refunded to my mother.

It is my understanding that services are tax exempt in Illinois. I asked why tax was charged on the services and the cemetery told me that the State requires them to do so. They admitted that if I had purchased the stone from another company and only purchased the services (installation and maintenance) from them, they wouldn't collect the tax. I asked them to make two transaction and they refused. I insisted that they call their accountant, which they did and they still said the tax was owed to the State.

In checking with a tax attorney friend and your web site, not only do I feel my mother was incorrectly taxed for services, I believe no tax was owed on the monument. The monument once engraved has no intrinsic value to anyone other than the customer, therefore making it tax exempt from retail sales tax under the service occupation tax.

The \$178.28 of retail sales tax was not owed and should be refunded. I expect the COMPANY and the State to work together to correct this error. Thank you.

June 13, 2000

For your information, we have enclosed a copy of 86 Ill. Adm. Code 130.2150 regarding Vendors of Memorial Stones and Monuments. This regulation states, in part, as follows:

"Persons who engage in the business of selling monuments, grave markers and the like to purchasers for use or consumption and not for resale incur Retailers' Occupation Tax liability on their receipts from such sales whether such items are sold as stock or standard items, or whether such items are produced on special order by the seller for the purchaser. Such items, when produced on special order, serve substantially the same function as stock or standard items that are sold at retail."

Basically, persons who engage in the business of selling monuments, grave markers and the like to purchasers for use or consumption and not for resale incur Retailers' Occupation Tax liability on their receipts from such sales whether such items are sold as stock or standard items, or whether such items are produced on special order by the seller for the purchaser. The selling price of the monuments and grave markers is the measure of the tax. The basic state rate of tax is 6.25%, plus local taxes.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.